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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,677	06/29/2001	Makoto Tomioka	010680	9414
38834 7590 10/22/2008 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
EXAMINER				
CZEKAJ, DAVID J				
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* MAKOTO TOMIOKA  
and  
HIROSHI TSUYUKI

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Application 09/893,677  
Technology Center 2600

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Mailed: October 22, 2008

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Before KRISTA ZELE, *Deputy Chief Appeals Administrator*.

ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on August 14, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

**EXAMINER'S CONSIDERATION OF REPLY BRIEF**

A Request for Oral Hearing and Reply Brief were filed in this application on May 29, 2008. There is no evidence on the record indicating that the Examiner has considered the Reply Brief in accordance with 37 CFR § 41.43(a)(1) (2007) and § 1208, part II of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007).

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to acknowledge and consider the Reply Brief filed May 29, 2008 as indicated above; and
- 2) for such further action as may be required.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ:psb

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